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8 IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT
9 OF THE STATE OF MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

10 -----
11 STATE OF MONTANA ex rel.)
12 DEPARTMENT OF HEALTH AND)
13 ENVIRONMENTAL SCIENCES,)
14)
15 Plaintiff,)
16)
17 v.)
18)
19 COLUMBIA FALLS ALUMINUM CO.,)
20 a Montana Corporation,)
21)
22 Defendant.)
23 -----

Cause No. _____

CONSENT DECREE,
JUDGMENT
AND
ORDER

18 The Plaintiff commenced this action on _____,
19 and the Defendant was served with a copy of the Complaint on
20 _____. With the Plaintiff being represented by
21 Katherine J. Orr, Special Assistant Attorney General, and the
22 Defendant representing itself, the parties having entered
23 into this Consent Decree and having submitted the same to the
24 Court, and with the Court being otherwise fully advised in
25 the premises, the Court hereby adopts as its Findings and

(CONSENT DECREE, JUDGMENT & ORDER)

1 Conclusions the following Stipulation of the parties:

2 STIPULATIONS

3 1. The Court of the Eleventh Judicial District has
4 jurisdiction over this matter and over the parties to this
5 action.

6 2. CFAC admits all of the allegations of the Complaint
7 but recites that CFAC had no intention to violate the Montana
8 Clean Air Act, Title 75, Chapter 2, MCA, or rules adopted
9 thereunder. The Parties agree that CFAC has already begun to
10 prepare a Plan of Correction as outlined on Pages 5 and 6 of
11 the Complaint, and CFAC agrees to submit such a Plan of Cor-
12 rection.

13 3. The Defendant agrees to pay the civil penalty of
14 TEN THOUSAND DOLLARS (\$10,000), FIVE THOUSAND DOLLARS (\$5000)
15 to be paid within sixty days of the date of entry of this
16 Consent Decree, Judgment and Order and FIVE THOUSAND DOLLARS
17 (\$5000) of which is suspended and shall be paid to the De-
18 partment only if (a) the Defendant fails to submit, within 30
19 days of the date of the entry of this Consent Decree, Judg-
20 ment and Order, a Plan of Correction to assure compliance
21 with ARM 16.8.1404(1); (b) fails to correct any deficiencies
22 in such Plan as determined by the Department; or (c) fails to
23 implement any aspect of such Plan of Correction once approved
24 by the Department. The Defendant agrees that such Plan of
25 Correction, once approved, is deemed to be an enforceable

(CONSENT DECREE, JUDGMENT & ORDER)

1 part of this Consent Decree, Judgment and Order.

2 4. The Defendant acknowledges its responsibility to
3 comply with the Montana Clean Air Act and specifically with
4 the duly adopted requirements of ARM 16.8.1404(1) concerning
5 visible air contaminants.

6 5. This agreement constitutes a full settlement of the
7 Defendant's non-compliance with the Montana Clean Air Act and
8 specifically with ARM 16.8.1404(1) which was documented on
9 July 27, 1988.

10 COLUMBIA FALLS ALUMINUM CO.

MONTANA DEPARTMENT OF
HEALTH AND ENVIRONMENTAL
SCIENCES

11 BY: _____

BY: _____

SIDNEY PRATT, M.D.
INTERIM DIRECTOR

12
13 TITLE: _____

14
15
16 WHEREFORE, IT IS HEREBY ORDERED:

17
18 1. That the Defendant COLUMBIA FALLS ALUMINUM CO.
19 ("CFAC") is hereby assessed a civil penalty in the amount of
20 TEN THOUSAND DOLLARS (\$10,000), FIVE THOUSAND DOLLARS (\$5000)
21 to be paid within sixty days of the date of entry of this
22 Consent Decree, Judgment and Order and FIVE THOUSAND DOLLARS
23 (\$5000) of which is suspended and shall be paid to the De-
24 partment only if (a) CFAC fails to submit within 30 days of
25 the date of the entry of this Consent Decree, Judgment and

(CONSENT DECREE, JUDGMENT & ORDER)

1 Order, a Plan of Correction to assure compliance with ARM
2 16.8.1404(1); (b) fails to correct any deficiencies to such
3 Plan as determined by the Department; or (c) fails to imple-
4 ment any aspect of such Plan of Correction once approved by
5 the Department.

6 2. That the Plan of Correction to be submitted to the
7 Department shall set forth a schedule for designing and im-
8 plementing a control system of either (1) dry scrubbing, (2)
9 wet scrubbing, or (3) incineration, and that such schedule,
10 at a minimum, shall provide for the following:

11 (a) On or before March 15, 1989, CFAC shall per-
12 form the necessary field sampling, equipment sizing and
13 preliminary costs analysis as a precursor to selecting
14 the appropriate pollution control equipment.

15 (b) On or before March 15, 1989, CFAC shall com-
16 plete engineering analysis and system design;

17 (c) On or before March 30, 1989, CFAC shall com-
18 plete and send out for bid, preliminary equipment de-
19 signs for such control systems as are under considera-
20 tion.

21 (d) On or before May 1, 1989, CFAC shall evaluate
22 all vendor proposals and choose a final control design
23 and equipment vendor and submit that information to the
24 DEPARTMENT in the form of a written permit application,
25 no later than May 1, 1989. The DEPARTMENT shall eval-

(CONSENT DECREE, JUDGMENT & ORDER)

1 uate and determine, in accordance with ARM Title 16,
2 Chapter 8, Subchapter 11, whether the proposed permit
3 application is approved.

4 (e) If the permit application is approved, CFAC,
5 no later than 25 days after such approval, shall issue
6 all necessary purchase orders for the control equipment
7 approved as provided in item (d).

8 (f) CFAC must make provisions to receive all nec-
9 essary control equipment on or before August 1, 1989.

10 (g) On or before October 15, 1989, all necessary
11 control equipment shall be installed and rendered opera-
12 tional.

13 (h) On or before December 15, 1989, testing shall
14 be completed and compliance demonstrated at the paste
15 plant stack.

16 3. That the Department may extend any deadline set
17 forth above if CFAC submits a written request within 10 days
18 prior to such deadline and shows good cause for the exten-
19 sion. Any extension so granted by the Department shall not
20 exceed thirty (30) business days.

21 4. That during the period prior to completion of the
22 Plan of Correction as may be approved by the Department, CFAC
23 shall operate its present pollution control equipment at its
24 maximum efficiency and capability so as to minimize emissions
25 of particulate matter to the atmosphere. Failure to operate

(CONSENT DECREE, JUDGMENT & ORDER)

1 said equipment in such manner will subject the company to
2 further enforcement actions as authorized by law.

3 5. That the Court retain jurisdiction of this matter
4 for the purpose of assuring the discharge of CFAC's respon-
5 sibilities hereunder.

6 6. That this matter is in all other respects dis-
7 missed.

8
9 DATED this _____ day of January, 1989.

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13 DISTRICT COURT JUDGE
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(CONSENT DECREE, JUDGMENT & ORDER)